The opinion in support of the decision being entered today is <u>not</u> binding precedent of the Board.

By:

Trial Section Merits Panel

Box Interference Washington, D.C. 20231

Tel: 703-308-9797 Fax: 703-305-0942 Paper 74 48

Filed: March 20, 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

GENCELL S.A.

Junior Party, Application 08/397,225 MAILED

MAR 2 0 2003

PAT. & T.M. OFFICE BOARD OF PATENT APPEALS AND INTERFERENCES

JEAN-LUC IMLER, MAJID MEHLA
and ANDREA PAVIRANI

Senior Party Application 09/218,143

Patent Interference No. 104,824 (CAS)

Before: TORCZON, SPIEGEL and LANE, Administrative Patent Judges.

SPIEGEL, Administrative Patent Judge.

FINAL JUDGMENT

Junior party Gencell S.A. (Gencell) has filed a written request for "adverse judgement as to Count 1, as redefined by granted Joint Preliminary Motion 1 and the Memorandum Opinion and Order (Paper 64)" pursuant to 37 CFR § 1.662(a) (Paper 71). Accordingly, it is

ORDERED that judgment on priority as to Count 1¹, the sole count in the interference, is awarded against junior party Gencell, i.e., MICHEL PERRICAUDET, EMMANUELLE VIGNE and PATRICE YEH.

FURTHER ORDERED that junior party Gencell, i.e., MICHEL PERRICAUDET, EMMANUELLE VIGNE and PATRICE YEH, is not entitled to a patent containing claims 1-3, 9, 11-18, 28, 30, 35 and 40-41 (corresponding to Count 1) of application 08/397,225, filed March 28, 1995.

FURTHER ORDERED that a copy of this paper shall be made of record in the files of applications 08/397,225 and 09/218,143.

FURTHER ORDERED that if there is a settlement agreement which has not been filed, attention is directed to 35 U.S.C. § 135(c) and 37 CFR § 1.661.

RICHARD TORCZON

Administrative Patent Jugge

CAROL A. SPIEGEL

Administrative Patent Judge

SALLY GARDNER LANE

Administrative Patent Judge

BOARD OF PATENT APPEALS AND INTERFERENCES

¹ Paper 61, p. 2 ("Perricauet '225 claims 1-3, 9, 11-18, 28, 30, 35, and 40-41, as amended in accordance with attached Proposed Amendment C"); Paper 64, p. 6; Paper 66 (entering "Proposed Amendment C."

cc (via fax and first class mail):

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